

# **TOWN OF DAVIE**

## **TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**THRU:** Mark Kutney, AICP, Development Services Director

**FROM/PHONE:** Daniel J. Stallone, Code Compliance Official, 954-797-1121

**PREPARED BY:** Daniel J. Stallone

**SUBJECT:** Resolution

**AFFECTED DISTRICT:** District 2

**TITLE OF AGENDA ITEM:** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF THE CODE COMPLIANCE LIENS IN CASE NO. 05-862 FROM \$5000.00 IN AMOUNT TO \$1635.98, AND PROVIDING AN EFFECTIVE DATE.

**REPORT IN BRIEF:** The Code Compliance Division initiated a code compliance case on August 4, 2005, in order to curtail the snipe signs advertising at this location. The respondent was brought to a special magistrate hearing on August 30, 2005, so as to respond to a notice of violation for violations of the following town code sections:

1. 12-238(J)(13): Signs within the Right-of-Way
2. 12-33(U): Nuisance/Eyesore

The special magistrate issued a Final Order after finding that the violations were in existence but had been removed and corrected before the hearing. Thereafter, on five (5) separate occasions, the Final Order was violated and the respondent was brought before the special magistrate in a noncompliance hearing to address the repeat violations.

Respondent and sign advertising company were present at noncompliance hearing and stated that because of recent hiring of the advertising company, there was a misunderstanding as to the town's sign code requirements. Nevertheless, the special magistrate imposed a fine equal to \$500.00 for each of two (2) violations per day for five (5) days for a total of \$5000.00.

The mitigated amount will cover the Town's expenses and the recommended mitigation guideline amount of \$1635.98 may be considered for approval by the Town Council; upon such approval, the respondent may be given forty-five (45) days to pay the mitigated amount.

**PREVIOUS ACTIONS:** Not applicable

**CONCURRENCES:** The Code Compliance Division offers the proposed mitigation amount as the result of the application of the Town Council-approved mitigation guidelines.

**FISCAL IMPACT:**

Has request been budgeted? N/A

\* \* \* \* \*

THIS PAGE  
INTENTIONALLY  
LEFT BLANK

\* \* \* \* \*

If yes, expected cost: \$

Account Name:

If no, amount needed: \$

What account will funds be appropriated from:

Additional Comments:

**RECOMMENDATION(S):** The Code Compliance Division recommends the approval of the mitigation amount equal to \$1635.98 as per the mitigation schedule and guidelines.

**Attachment(s):** Town Council Agenda Submittal Pink Sheet, Town Council Agenda Report, Resolution, Mitigation Request Summary, Mitigation Worksheet, Mitigation Application Review Form, Mitigation Inspection Report, Mitigation Request Letter, Town Council Code Compliance Mitigation Guidelines

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A REQUEST FOR MITIGATION OF CODE COMPLIANCE LIENS IN CASE NO. 05-0682 FROM \$5,000.00 IN AMOUNT TO \$1,635.98; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Dave Morrison and Chad Zaputil on behalf of K MART Corporation have requested a mitigation of Code Compliance liens from \$5000.00; and

WHEREAS, the Town of Davie Code Compliance Division has determined that the violation of Code Sections 12-238(J)(13) and 12-33(U) were corrected; and

WHEREAS, the Town of Davie Code Compliance Division Mitigation Guidelines has proscribed a mitigation amount equal to \$1,635.98; and

WHEREAS, Dave Morrison and Chad Zaputil on behalf of K MART Corporation and the Town of Davie Code Compliance Division are agreeable to such mitigation.

WHEREAS, the Town Council is agreeable to such mitigation.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. That the certain Code Compliance liens arising out of Case No. 05-862 in the amount of \$5000.00 against K MART Corporation, are hereby mitigated in amount to \$1,635.98.

SECTION 2. That this mitigated amount of \$1,635.98 be paid to the Town within 45 days of the enactment of this Resolution. Should this amount of \$1,635.98 not be paid within the specified time the liens shall revert to the original amount of \$5,000.00.

SECTION 3. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006

## MITIGATION REQUEST SUMMARY

DATE: April 24, 2006  
NAME: K MART Corporation  
ADDRESS: 1901 S. University Drive, Davie, Florida  
CASE: 05-0862

### SUMMARY:

Date respondent cited:

August 4, 2005

Date of Final Order:

September 7, 2005

Non-Compliance Hearing(s):

January 10, 2006

Fine/Lien Imposed:

\$5,000.00

Total:

\$5,000.00

---

Date respondent requested mitigation:

January 25, 2006

1. The property is now in compliance with the applicable Town code sections.
2. The owner of the business at this property, K MART Corporation, was cited for the following violations of Davie Town code sections:
  - 12-238(J)(13): Signs within the public right-of-way;
  - 12-33(U): Creation of a nuisance and eyesore condition.
3. The mitigation guidelines recommend the amount of \$1,635.98.

The mitigated amount will cover the Town expenses and the recommended mitigation guideline amount of \$1,635.98 may be considered for approval by the Town Council; upon Town Council approval, the respondent may be given 45 days to pay the mitigated amount.

  
MARK KUTNEY  
DEVELOPMENT SERVICES DIRECTOR

  
DANIEL J. STALLONE  
CODE COMPLIANCE OFFICIAL

**TOWN OF DAVIE CODE COMPLIANCE  
MITIGATION WORKSHEET  
CASE #05-0862**

**Respondent(s):** K MART Corporation

**Address:** 1901 S. University Drive, Davie, Florida

**Fine/Lien Amount:** \$5000.00

**Mitigation Recommendation:**  
**(as per approved mitigation guidelines)**

a) 7.5% of \$5,000.00	=	\$ 375.00
b) 5.0% of \$5,000.00 5 days of non-compliance equals 5.0 % of lien/fine per 60 days of non-compliance	=	\$ 250.00
c) Mitigation Base Fee (Town costs incurred by Code Compliance)	=	\$ 1010.98
d) Mitigation Total	=	\$ 1,635.98

**TOWN OF DAVIE  
CODE COMPLIANCE DIVISION  
MITIGATION APPLICATION REVIEW FORM**

**SECTION 1:** (To be completed by Code Compliance Official)

1. Name of Respondent(s)/Applicant(s): K MART CORPORATION
2. Case Number: 05-862
3. Total amount of Code Compliance Lien(s)/Administrative Fine(s): \$ 5,000.00
4. Is Respondent(s)/Applicant(s) in compliance with applicable Town Code Sections? Yes / No  
(If the answer to Question 4 is no, do not complete Question 5, as compliance is a prerequisite to further processing.)
5. Mitigation amount recommended by the Town Council-approved guidelines: \$ 1,635.98

**SECTION 2:** (To be completed by Respondent/Applicant)

1. Please state any and all reasons why the Town should agree to mitigate the Code Compliance Lien(s)/Administrative fine:

We are in agreement to mitigate the  
fine to the amounts stated above  
and below.

Signature: Chad Zentel

Date: 4/17/06

2. Please indicate the amount which you request the Code Compliance Lien(s) be mitigated to:  
\$ 1,635.98

**NOTE:** The Code Compliance Division will submit your request for consideration to the Town Council to either accept or deny your mitigation amount; if your request is less than the mitigation guideline amount, the Code Compliance Division shall automatically make a recommendation to deny your mitigation request. In the event you do not agree with the mitigation guideline amount as set forth in Section 1 above, the matter will be referred to a Special Magistrate who will make a recommendation to the Town Council. The decision to grant or deny the request for mitigation will be made by the Town Council. In the event the Town Council approves your mitigation request, you must pay the mitigated amount to the Town of Davie within 45 days of Town Council approval or the Code Compliance Lien(s)/Administrative Fine(s) will remain in effect in the original amount.

**SECTION 3:** (To be authorized by Department Director)

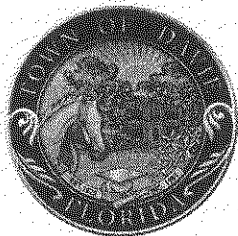
The Code Compliance Division hereby submits the request made by the Respondent/Applicant, in Section 2, to mitigate the Code Compliance Lien(s)/Administrative Fine(s) in Case Number 05-862 from a total of \$ 5,000.00 to the amount requested by the Respondent/Applicant which is \$ 1,635.98 for consideration by the Town Council.

Daniel J. Stallone  
Code Compliance Official

4-19-06  
Date

Mark A. Kitting  
Department Director

5/5/06  
Date



TOWN OF DAVIE  
CODE COMPLIANCE DIVISION  
6591 ORANGE DRIVE  
DAVIE, FLORIDA 33314

MITIGATION INSPECTION REPORT

CASE NO. 05-862

DATE FINAL ORDER ISSUED: 9-7-05 INSPECTION DATE 2-06-06

RESPONDENT(S) K MART CORPORATION

PROPERTY ADDRESS 1901 S. UNIVERSITY DRIVE

VIOLATIONS.....X.....COMPLIED.....NOT COMPLIED (check one)

MITIGATION HEARING REQUEST (DATE) N/A

LIST VIOLATIONS NOT COMPLIED: \_\_\_\_\_

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

Comments: \_\_\_\_\_

INSPECTOR  
SIGNATURE

DJS 4/06

DJ Stallone

DATE

4-24-06





3553-A-Atlantic Ave. #560 | Long Beach, CA 90807  
(P) 562.595.7414 | (F) 562.595.7416  
[www.advancedmediasolutions.net](http://www.advancedmediasolutions.net)

January 25, 2006

Town of Davie  
Attention: Richard E. Conner, Esq.  
6591 Orange Drive  
Davie, Florida 33314-3399

Re: Case No. 05-862

Richard E. Conner, Esq:

Advanced Media Solutions has worked in conjunction with Kmart in the past to perform outdoor promotional sign events. We apologize for any violations that have occurred. We now fully understand and are aware of exact codes in Davie, Florida and requirements to be in compliance. The purpose of this letter is to assure the city of Davie, Florida that we will no longer attempt to perform these events within their city in order to follow codes. We would like mitigate the non-compliance penalty of \$5000.00 levied against the Kmart Corporation located at 1901 South University Drive in the Town of Davie, FL. Please let us know the outcome of your decision.

Respectfully,

A handwritten signature in cursive script, appearing to read 'Chad Zaputil', written in dark ink.

Chad Zaputil  
Advanced Media Solutions  
3505 Long Beach Blvd. 2-0  
Long Beach, CA 90807  
(562) 595-7414  
(562) 595-7416 fax

A handwritten signature in cursive script, appearing to read 'Dave Morrison', written in dark ink.

Dave Morrison  
Kmart Corporation  
1901 South University Drive  
Davie, FL 33324  
(954) 475-8240  
(954) 475-8364 fax

Cc Richard E. Connor, Esq.

MITIGATION GUIDELINES

FINE AMOUNT

RECOMMENDATION

Fine to \$10,000

7.5% of the amount plus an additional 5%  
For each sixty (60) days of violation plus actual costs incurred  
by the Town.

\$10,000 - \$20,000

10.0% of the amount plus an additional 6%  
For each sixty (60) days of violation plus actual costs incurred  
by the Town.

\$20,001 - \$30,000

12.5% of the amount plus an additional 7%  
For each sixty (60) days of violation plus actual costs incurred  
by the Town.

\$30,001 - \$40,000

15.0% of the amount plus an additional 8%  
For each sixty (60) days of violation plus actual costs incurred  
by the Town.

\$40,001 - \$50,000

17.5% of the amount plus an additional 9%  
For each sixty (60) days of violation plus actual costs incurred  
by the Town.

\$50,001 - \$60,000

20.0% of the amount plus an additional 10%  
For each sixty (60) days of violation plus actual costs incurred  
by the Town.

\$60,001 - \$70,000

22.5% of the amount plus an additional 11%  
For each sixty (60) days of violation plus actual costs incurred  
by the Town.

\$70,001 - \$80,000

25.0% of the amount plus an additional 12%  
For each sixty (60) days of violation plus actual costs incurred  
by the Town.

\$80,001 - \$90,000

27.5% of the amount plus an additional 13%  
For each sixty (60) days of violation plus actual costs incurred  
by the Town.

\$90,001 - \$100,000

30.0% of the amount plus an additional 14%  
For each sixty (60) days of violation plus actual costs incurred  
by the Town.

Over \$100,000

35.0% of the amount plus an additional 15%  
For each sixty (60) days of violation plus actual costs incurred  
by the Town.

This schedule would be utilized for first time violators and repeat violators.

MITIGATION BASE FEE (COST OF CASE ADMINISTRATION AND DEVELOPMENT) SHALL BE ADDED TO THE TOTAL DERIVED FROM APPLICATION OF ABOVE GUIDELINES. THE MITIGATION BASE FEE IS BASED UPON THE EXPENSES INCURRED BY TOWN EMPLOYEES AND ALL ACCOMPANYING COSTS.  
MITIGATION BASE FEE\* \$ 1010.98

\*Subject to revision as per current staff salaries.